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Via email to: RomanNYSDCChambers@nysd.uscourts.gov and ECF

Hon. Judge Nelson S. Román, U.S.D.J.

Southern District of New York

United States Courthouse

Courtroom 218

300 Quarropas Street

White Plains, NY 10601

**Re: Blackhawk Development, LLC. v. Krusinski
Construction Company and Third Party Action
Civil Action No. 7:19-cv-05590-NSR**

REQUEST FOR LEAVE SERVE REPLY AND FILE LATE MOTION

Dear Honorable Judge Román:

We represent Third Party Defendant CBRE, Inc. ("CBRE") in the above-referenced matter. As you may recall Your Honor granted CBRE's request to file a motion to dismiss the Amended Third Party Complaint of Krusinski Construction Company ("KCC") pursuant to FRCP Rule 12(b)(6) pursuant to your Order dated July 27, 2020. Pursuant that said order CBRE's moving papers were served on September 14, 2020 and KCC served its opposition on October 14, 2020.

The undersigned drafted reply papers a week prior to the return date with the intent of filing all motion documents on October 29, 2020, the date your Order set for the return date. Unfortunately, my calendar clerk neglected to add the October 29, 2020 date to the firm calendar. Enclosed herewith is a copy of her email acknowledging the error.

As a result, we inadvertently allowed the return date to pass without filing the motion papers. With great regret we respectfully request additional time to serve the reply and file the motion papers. Attached hereto are copies of CBRE's Motion to Dismiss, KCC's Opposition and CBRE's Reply which remains has not been revised since it was drafted on October 21, 2020.

The error was only discovered on November 4, 2020 and attempts to reach KCC's counsel yesterday were unsuccessful. It is thus unknown at this time whether KCC's counsel is willing to consent.

In granting CBRE leave to make the motion the Court noted that another party had made a similar motion to dismiss and the Court wished to decide both together.

Thank you for your consideration.

Respectfully,

sheeleyllp.com

Third Party Defendant's motion to serve and file late motion papers is GRANTED. Third Party Defendant's reply brief shall be served on or before November 13, 2020. All motion papers shall be filed on or before November 13, 2020. The Clerk of Court is kindly directed to terminate the motion at ECF No. 159.

November 12, 2020
White Plains, NY

SO ORDERED:

HON. NELSON S. ROMAN
UNITED STATES DISTRICT JUDGE

MEMO ENDORSED

Jon Lichtenstein

CC: All parties by email and ECF